

March 29, 2018

AnnaLou Tirol
Acting Chief, Public Integrity Section
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Andrew Vale
Assistant Director in Charge
FBI Washington Field Office
601 4th Street, NW
Washington, DC 20535

Re: Request for Investigation of SCL Elections Ltd., Cambridge Analytica LLC, Alexander Nix, unknown foreign nationals, Stephen Bannon, John Bolton Super PAC, and Donald J. Trump for President, Inc.

Dear Acting Chief Tirol and Assistant Director Vale:

Citizens for Responsibility and Ethics in Washington (“CREW”) and Democracy 21 respectfully request that the U.S. Department of Justice (“DOJ”) and the Federal Bureau of Investigation (“FBI”) investigate whether SCL Elections Ltd., Cambridge Analytica LLC, Alexander Nix, Stephen Bannon and an unknown party or parties criminally violated the Federal Election Campaign Act (“FECA”) by directly or indirectly participating in the decision-making process of the John Bolton Super PAC and Donald J. Trump for President, Inc., both federal political committees, in violation of 52 U.S.C. § 30121(a)(1) and 11 C.F.R. § 110.20(i). We further request that you investigate whether Stephen Bannon, the John Bolton Super PAC, and Donald J. Trump for President, Inc., conspired with or aided and abetted SCL Elections Ltd., Cambridge Analytica LLC, Alexander Nix, Stephen Bannon, and unknown other parties to violate 52 U.S.C. § 30121(a)(1) and 11 C.F.R. § 110.20(i).

The law prohibits foreign nationals from participating, directly or indirectly, in elections in the United States. That prohibition covers not only the making of financial contributions, but also any foreign national’s direct or indirect participation in the decision-making process of any person with respect to its federal or non-federal election-related activities. Nevertheless, SCL Elections Ltd., a corporation based in the United Kingdom; Alexander Nix, a British national, through his work as manager at Cambridge Analytica, a company in which Stephen Bannon was a manager and director; and an unknown number of foreign nationals working with either corporation directly or indirectly participated in the decision-making process of John Bolton Super PAC, a registered political committee with the FEC, starting in as early as 2014, and appear to have played a similar role in the presidential campaign of Donald J. Trump.

Factual Background

SCL Elections Ltd. is a United Kingdom limited company and a minority owner of Cambridge

Analytica LLC.¹ As a United Kingdom limited company, SCL Elections Ltd. is a foreign national as that term is defined by the FECA and FEC regulations.² Cambridge Analytica LLC (“CA”) is a Delaware limited liability company partially owned by SCL Elections Ltd.³ Stephen Bannon co-founded Cambridge Analytica LLC, served on its board of directors from its founding in 2013 until August of 2016, and served as its vice-president from June 2014 until August of 2016.⁴ Alexander Nix is a citizen of the United Kingdom, a director of SCL Elections Ltd. and a common manager of Cambridge Analytica LLC.⁵ As a citizen of the United Kingdom, Mr. Nix is a foreign national as that term is defined by FECA and FEC regulations.⁶ John Bolton Super PAC is an independent expenditure-only committee (“super PAC”) established on March 8, 2013 under the name Bolton for America Super PAC.⁷ Donald J. Trump for President, Inc. was the principal campaign committee of President Donald Trump during the 2016 election cycle.⁸

On July 7, 2014, the John Bolton Super PAC paid Cambridge Analytica \$25,000 for “research.”⁹ According to Christopher Wylie, a former employee of SCL Elections Ltd., the John Bolton Super PAC hired Cambridge Analytica LLC and SCL Elections Ltd. in the summer of 2014 “to provide microtargeting and boost the super PAC’s advocacy on national security issues, according to a copy of the signed contract Wylie provided to the *Post*.”¹⁰ Cambridge Analytica LLC and SCL Elections Ltd. established three goals for the John Bolton Super PAC and John Bolton personally: to help the John Bolton Super PAC “elect Republican Senate candidates in Arkansas, North Carolina and New Hampshire; to raise the issue of national security; and to boost Bolton’s profile, according to a memo obtained by the *Post* from [a] former Cambridge Analytica employee.”¹¹ To achieve these goals, Cambridge Analytica LLC and SCL Elections Ltd. were contracted to work with the staff of the John Bolton Super PAC “to craft and deploy a communications program in the target states,” according to the contract between Cambridge Analytica LLC, SCL Elections Ltd. and the John Bolton Super PAC.¹² According to the memorandum provided to the *Post*, the John Bolton Super PAC “made use of *significant input* from SCL on messaging and target audiences.”¹³ “Using . . . psychographic models, Cambridge helped design

¹ Laurence Levy, Mem. Re. Participation in US Elections at 6 (July 22, 2014), available at http://msnbcmedia.msn.com/i/TODAY/z_Creative/LEVY_MEMO_DM_4636592_v1_Memo_re_Participation_in_US_Election_s.pdf (hereinafter “Levy Memo”).

² 52 U.S.C. § 30121(b)(1); 11 C.F.R. § 110.20(a)(3)(i).

³ Levy Memo at 6.

⁴ *Id.*; Craig Timberg, Karla Adam and Michael Kranish, Bannon oversaw Cambridge Analytica’s collection of Facebook data, according to former employee, *Washington Post* (Mar. 20, 2018), available at https://www.washingtonpost.com/politics/bannon-oversaw-cambridge-analyticas-collection-of-facebook-data-according-to-former-employee/2018/03/20/8fb369a6-2c55-11e8-b0b0-f706877db618_story.html.

⁵ *Id.*

⁶ 52 U.S.C. § 30121(b)(1); 11 C.F.R. § 110.20(a)(3)(i).

⁷ FEC Form 1, Bolton for America Super PAC (Mar. 8, 2013), available at <http://docquery.fec.gov/pdf/194/13031044194/13031044194.pdf>.

⁸ FEC Form 1, Donald J. Trump for President, Inc. (June 29, 2015), available at <http://docquery.fec.gov/cgi-bin/forms/C00580100/1011720/>.

⁹ John Bolton Super PAC, FEC Form 3X, 2014 Pre-Primary Report, at 33 (Aug. 28, 2014), available at <http://docquery.fec.gov/cgi-bin/forms/C00542464/949227/>.

¹⁰ Michelle Ye Hee Lee, Craig Timberg, and Josh Dawsey, Cambridge Analytica harnessed Facebook data in work for super PAC led by John Bolton, according to former employees, *Washington Post* (Mar. 23, 2018), available at https://www.washingtonpost.com/politics/cambridge-analytica-harnessed-facebook-data-in-work-for-super-pac-led-by-john-bolton-according-to-former-employees/2018/03/23/d756967a-2ea3-11e8-8ad6-fbc50284fce8_story.html; see also Matthew Rosenberg, Bolton Was Early Beneficiary of Cambridge Analytica’s Facebook Data, *New York Times* (Mar. 23, 2018), available at <https://www.nytimes.com/2018/03/23/us/politics/bolton-cambridge-analyticas-facebook-data.html>.

¹¹ Michelle Ye Hee Lee, Craig Timberg, and Josh Dawsey, Cambridge Analytica harnessed Facebook data in work for super PAC led by John Bolton, according to former employees, *Washington Post* (Mar. 23, 2018), available at https://www.washingtonpost.com/politics/cambridge-analytica-harnessed-facebook-data-in-work-for-super-pac-led-by-john-bolton-according-to-former-employees/2018/03/23/d756967a-2ea3-11e8-8ad6-fbc50284fce8_story.html.

¹² *Id.*

¹³ *Id.* (emphasis supplied).

concepts for advertisements for candidates supported by Mr. Bolton's PAC, including the 2014 campaign of Thom Tillis, the Republican senator from North Carolina, according to Mr. Wylie and another former employee, who spoke on the condition of anonymity to avoid being dragged into the investigations that now appear to be engulfing Cambridge."¹⁴ Most importantly, "SCL Elections deployed an operative on the ground to help the super PAC track *and modify* advertising for targeted groups, documents show."¹⁵

On July 22, 2014 – two weeks after the John Bolton Super PAC made its initial payment to Cambridge Analytica LLC – Laurence Levy, a partner in the law firm of Bracewell & Giuliani, sent a confidential legal memorandum to Stephen Bannon and Alexander Nix, among others, in their capacities as managers of Cambridge Analytica LLC. The memo advised them on the steps that they would have to take to comply with the prohibition on foreign national participation in United States elections while providing services to the John Bolton Super PAC and other federal political committees.¹⁶ Mr. Levy explained the broad scope of the prohibition on foreign national participation in decisions involving election-related activities by federal political committees established by 52 U.S.C. § 30121 and 11 C.F.R. § 110.20(i).¹⁷ In light of this prohibition, Mr. Levy advised the managers that "because Cambridge is currently being managed day to day by Mr. Nix, in order for Cambridge to engage in such activities Mr. Nix would first have to be recused from substantive management of any such clients involved in U.S. elections, and could only participate in ministerial functions, which would include overseeing billings, resource allocation within the company, etc."¹⁸ Mr. Levy then advised the managers that "[f]oreign [n]ationals may work in a U.S. political campaign, but may not play strategic roles including the giving of strategic advice to candidates, political parties, or independent expenditure committees."¹⁹ "[F]oreign nationals may act as functionaries that collect and process data," he added, "but the final analysis of said data should be conducted by U.S. citizens and conveyed to any U.S. client by such citizens. *If the foreign nationals were to conduct the analysis it could support a claim of indirectly participating in the decision to spend federal campaign funds.*"²⁰ *To the extent you are aware of foreign nationals providing services, including polling and marketing, it would appear that unless it is being done through U.S. citizens, or foreign nationals with green cards, the activity would violate the law.*"²¹ With regard to embedding foreign nationals in U.S. political committees, Mr. Levy advised the managers that the "history of prohibiting foreign national's involvement in U.S. campaigns . . . clearly distinguishes between citizens, and those with a green card, versus all others, broadly classified as foreign nationals. Therefore, the possession of an H1 visa or student visa is of no moment for this analysis."²²

SCL Elections Ltd., Cambridge Analytica LLC, Stephen Bannon, and Alexander Nix ignored the legal advice provided by Bracewell & Giuliani while participating in election-related activities for the John Bolton Super PAC. "Employees working for Cambridge Analytica in the US at the time claimed that rather than tackling the problem, management appeared to ignore it."²³ "[A] lawyer [for one of

¹⁴ Matthew Rosenberg, Bolton Was Early Beneficiary of Cambridge Analytica's Facebook Data, *New York Times* (Mar. 23, 2018), available at <https://www.nytimes.com/2018/03/23/us/politics/bolton-cambridge-analyticas-facebook-data.html>.

¹⁵ Michelle Ye Hee Lee, Craig Timberg, and Josh Dawsey, Cambridge Analytica harnessed Facebook data in work for super PAC led by John Bolton, according to former employees, *Washington Post* (Mar. 23, 2018), available at https://www.washingtonpost.com/politics/cambridge-analytica-harnessed-facebook-data-in-work-for-super-pac-led-by-john-bolton-according-to-former-employees/2018/03/23/d756967a-2ea3-11e8-8ad6-fbc50284fce8_story.html

¹⁶ Levy Memo, *supra* note 1.

¹⁷ *Id.*

¹⁸ *Id.* at 6.

¹⁹ *Id.* at 7.

²⁰ *Id.* (emphasis supplied).

²¹ *Id.* (emphasis supplied).

²² *Id.* at 8.

²³ Carole Cadwalladr and Emma Graham-Harrison, Staff claim Cambridge Analytica ignored US ban on foreigners working on elections, *The Guardian* (Mar. 17, 2018), available at <https://www.theguardian.com/uk-news/2018/mar/17/cambridge-analytica-non-american-employees-political>.

Cambridge Analytica's directors, Rebekah Mercer,] told a fairly stunned group meeting that it wasn't allowed,' said one non-American employee who was based in the US at the time. 'I'm not sure what, if anything, CA did to act on that knowledge.'"²⁴ "Two employees confirmed that they were still answering ultimately to Nix throughout the mid-term election campaigns that ended in November 2014. In total, more than a dozen foreigners, including Britons and Canadians, filled strategic roles in campaigns across the US."²⁵ *The Guardian* also reported that: "It is understood that some were working on tourist visas. Another ex-employee claimed that they had been provided with letters to give to US border control officials where needed, stating that they would not be working there."²⁶ "There were no briefings on the kind of work that non-US citizens should avoid, or warnings about the legal risks. 'CA was sloppy and didn't care about its staff,' said the first employee."²⁷ Separately, a former employee told *The New Yorker* "'I make no distinction between S.C.L. and Cambridge Analytica, because nor does the company,' the employee said. 'People sit together. You have both e-mails, depending which country you are writing to.'"²⁸ Another former employee noted that "[t]he ranks of company campaign workers included a 'small handful of U.S. citizens' but dozens of foreign workers."²⁹ One former employee explained: "'We knew that everything was not above board, but we weren't too concerned about it,' said one of the former Cambridge Analytica workers, who spent several months in the United States working on Republican campaigns. 'It was the Wild West. That's certainly how they carried on in 2014.'"³⁰

Foreign nationals, including Christopher Wylie, were involved in providing strategic advice to the John Bolton Super PAC regarding the independent expenditures the super PAC made to support the election of several federal candidates, including Thom Tillis in North Carolina. "*Chris Wylie, a 28-year-old Canadian who ran messaging for Cambridge out of its London office in 2014, said he worked on all the company's U.S. political campaigns in 2014, 'and stopped at most of them, like Thom Tillis's campaign.'* Tillis ran for and won a U.S. Senate seat in North Carolina in 2014."³¹ "Wylie said that many foreign nationals worked on the campaigns, and many were embedded in the campaigns around the U.S. 'It was not just me,' he said. 'Like 20 other people were. We had Canadians, British, Eastern Europeans, Lithuanians, Germans, Romanians, Greeks.'"³² Most importantly, Wylie said that foreign nationals were participating in the decisions that U.S. political committees, including the John Bolton Super PAC, made with regard to how the political committees made campaign expenditures. "'We weren't just working on messaging. *We were instructing campaigns on which messages go where and to who.*'"³³ Separately, Wylie said "that he was part of multiple conference calls in 2014 *with Bannon and*

²⁴ *Id.*; see also Matthew Rosenberg, Nicholas Confessore, and Carole Cadwalladr, How Trump Consultants Exploited the Facebook Data of Millions, *New York Times* (Mar. 17, 2018), available at <https://www.nytimes.com/2018/03/17/us/politics/cambridge-analytica-trump-campaign.html> ("In summer and fall 2014, Cambridge Analytica dived into the American midterm elections, mobilizing SCL contractors and employees around the country. Few Americans were involved in the work, which included polling, focus groups and message development for the John Bolton Super PAC, conservative groups in Colorado and the campaign of Senator Thom Tillis, the North Carolina Republican.").

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ Sam Knight, Life Inside S.C.L., Cambridge Analytica's Parent Company, *The New Yorker* (Mar. 26, 2018), available at <https://www.newyorker.com/news/letter-from-the-uk/life-inside-scl-cambridge-analyticas-parent-company>.

²⁹ Craig Timberg and Tom Hamburger, Former Cambridge Analytica workers say firm sent foreigners to advise U.S. campaigns, *Washington Post* (Mar. 25, 2018), available at https://www.washingtonpost.com/politics/former-cambridge-analytica-workers-say-firm-sent-foreigners-to-advise-us-campaigns/2018/03/25/6a0d7d90-2fa2-11e8-911f-ca7f68bfff0fc_story.html.

³⁰ *Id.*

³¹ Anna R. Schecter, Wylie: Foreigners worked for Cambridge Analytica on NC Senate Campaign, *NBC News* (Mar. 23, 2018), available at <https://www.nbcnews.com/politics/elections/wylie-foreigners-worked-cambridge-analytica-nc-senate-campaign-n859526> (emphasis supplied).

³² *Id.*

³³ *Id.* (emphasis supplied).

Nix, a Briton, in which strategic campaign matters were discussed.”³⁴ “Wylie said that Bannon ... was deeply involved in [CA’s] strategy and approved spending nearly \$1 million to acquire data, including Facebook profiles, in 2014. ‘We had to get Bannon to approve everything at this point. Bannon was Alexander Nix’s boss,’ said Wylie.”³⁵

On August 17, 2016, Bannon was appointed chief executive of then-candidate Trump’s official campaign organization, Donald J. Trump for President, Inc.³⁶ The campaign’s spending records indicate that it paid Cambridge Analytica nearly \$6 million during 2016 for “data management” or “data management services”; all but \$100,000 of that was disbursed after Bannon joined the campaign, including a single \$5,000,000 disbursement on September 1, two weeks after he was hired.³⁷ This disbursement apparently represented a “purchase of television ads” that “aired on cable channels in Washington, D.C.” that Cambridge Analytica “targeted.”³⁸ Nix also “said the firm had conducted tens of thousands of polls for Mr. Trump, helping guide his message and identify issues that mattered to voters.”³⁹ Campaign staff said that Cambridge Analytica “provid[ed] personnel who worked alongside other analytics vendors on some early digital advertising” and “helped set up Mr. Trump’s polling operation and build turnout models used to guide the candidate’s spending and travel schedule.”⁴⁰ Speaking to an undercover reporter, Nix described the company’s work for the Trump campaign in broad terms: “We did all the research, all the data, all the analytics, all the targeting, we ran all the digital campaign, the television campaign, and our data informed all the strategy.”⁴¹

Violations

The FECA prohibits foreign nationals from making contributions or expenditures in connection with a Federal, State or local election.⁴² FEC regulations and advisory opinions interpret this prohibition broadly as prohibiting a foreign national from “directly or indirectly participat[ing] in the decision-making process of any . . . political committee . . . with regard to that [committee’s] Federal or non-Federal election-related activities, such as decisions concerning the making of contributions, donations, expenditures, or disbursements in connection with elections for any Federal, State, or local office or decisions concerning the administration of a political committee.”⁴³ Moreover, this FEC regulation prohibits foreign nationals from merely “*taking part in decisions about contributions and donations to any*

³⁴ Craig Timberg and Tom Hamburger, Former Cambridge Analytica workers say firm sent foreigners to advise U.S. campaigns, *Washington Post* (Mar. 25, 2018), available at https://www.washingtonpost.com/politics/former-cambridge-analytica-workers-say-firm-sent-foreigners-to-advise-us-campaigns/2018/03/25/6a0d7d90-2fa2-11e8-911f-ca7f68bff0fc_story.html (emphasis supplied).

³⁵ Craig Timberg, Karla Adam and Michael Kranish, Bannon oversaw Cambridge Analytica’s collection of Facebook data, according to former employee, *Washington Post* (Mar. 20, 2018), available at https://www.washingtonpost.com/politics/bannon-oversaw-cambridge-analyticas-collection-of-facebook-data-according-to-former-employee/2018/03/20/8fb369a6-2c55-11e8-b0b0-f706877db618_story.html.

³⁶ Jonathan Martin, Jim Rutenberg and Maggie Haberman, Donald Trump Appoints Media Firebrand to Run Campaign, *New York Times* (Aug. 17, 2018), available at <https://www.nytimes.com/2016/08/18/us/politics/donald-trump-stephen-bannon-paul-manafort.html>.

³⁷ Federal Election Commission, Disbursements of Donald J. Trump for President, Inc., available at https://www.fec.gov/data/disbursements/?two_year_transaction_period=2016&data_type=processed&committee_id=C00580100&recipient_name=cambridge+analytica&min_date=01%2F01%2F2015&max_date=12%2F31%2F2016

³⁸ Nicholas Confessore and Danny Hakim, Data Firm Says ‘Secret Sauce’ Aided Trump; Many Scoff, *New York Times* (Mar. 6, 2017), available at <https://www.nytimes.com/2017/03/06/us/politics/cambridge-analytica.html>.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Georgina Lee, Q&A on Cambridge Analytica. The allegations so far, explained, *Channel 4*, available at <https://www.channel4.com/news/factcheck/cambridge-analytica-the-allegations-so-far>; see also <https://www.channel4.com/news/data-democracy-and-dirty-tricks-cambridge-analytica-uncovered-investigation-expose>.

⁴² 52 U.S.C. § 30121(a)(1).

⁴³ 11 C.F.R. § 110.20(i); see also Advisory Opinion 2004-26 (Weller).

Federal, State, or local candidates or to, or by, any political committees or organizations, and in decisions about expenditures and disbursements made in support of, or in opposition to, such candidates, political committees or political organizations.”⁴⁴ The FECA provides that a violation of the statute is criminal if “[a]ny person . . . knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution, donation, or expenditure.”⁴⁵ Finally, it is unlawful to aid and abet another in the commission of a crime and to conspire with another to commit a federal offenses or to defraud a United States agency, including the Federal Election Commission.⁴⁶

Conclusion

CREW and Democracy 21 respectfully request DOJ and the FBI immediately commence an investigation into this matter and take appropriate action.

Sincerely,

/s/ Noah Bookbinder
Noah Bookbinder
Executive Director
Citizens for Responsibility and
Ethics in Washington

/s/ Fred Wertheimer
Fred Wertheimer
President
Democracy 21

⁴⁴ Explanation and Justification for Regulations on Contribution Limitations and Prohibitions, 67 Fed. Reg. 69928, 66946 (Nov. 19, 2002).

⁴⁵ 52 U.S.C. § 30109(d)(1).

⁴⁶ 18 U.S.C. § 2; 18 U.S.C. § 371.